

radio installation, telephone line, or other communicating facilities built or operated by any Federal agency.

(vi) You must comply with any or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

(b) [Reserved]

§ 169.29 What restrictions apply if I ask for a right-of-way across government-owned lands for a transmission line?

(a) If you apply for a right-of-way for a transmission line having a voltage of 66 kv or more, across Government-owned lands you must comply with § 169.5. You must also execute and file a statement with your application agreeing to accept the right-of-way grant subject to the following conditions:

(1) We reserve the right to acquire such line or facilities at a sum to be determined by your representative, a representative of the Secretary, and a third representative to be selected by the other two for the purpose of determining the value of such property to be acquired.

(2) You must allow the Department of the Interior to use, for the transmission of electrical power, any surplus capacity of the line in excess of the capacity needed by you. You must allow us to increase the capacity of the line at the Department's expense and to use the increased capacity for the transmission of electrical power.

(b) [Reserved]

§ 169.30 If the Department uses my surplus capacity to transmit power, what conditions apply?

Use by the Department of surplus or increased capacity will be subject to the following terms and conditions:

(a) If we want to use surplus capacity thought to exist in a line, we will notify you in writing. You must furnish us a certificate within 30 days, stating whether the line has any surplus capacity for the transmission of electrical power in connection with your operations, and, if so, the extent of the surplus capacity.

(b) If you certify that you have surplus capacity available, or have any increased capacity that we pay for, we may interconnect our transmission facilities with your line in a manner that meets approved standards of practice for interconnecting transmission circuits.

(c) We will pay for interconnecting. We will also provide and maintain adequate switching, relaying, and protective equipment to ensure that the normal and efficient operation of your line will not be impaired.

(d) After any interconnection is completed, you must operate and

maintain your line in good condition; and, except in emergencies, must keep in a closed position all connections under your control between your line and the interconnecting facilities that we provide.

(e) You must operate the interconnected power systems (yours and ours) in parallel.

(f) We will transmit electrical power over your line in a way that will not interfere unreasonably with your use and operation of the line in accordance with your normal operating standards. We have the exclusive right to use any increased capacity for the line that we provided.

(g) You don't have to allow us to transmit electrical power over your line to any person receiving services from you on the date that you apply for a grant, unless they are entitled to statutory preference in connection with our distribution and sale of electrical power.

(h) We will pay you the total monthly maintenance and operating costs for the part of your line that we use.

(1) We will pay you a percentage of your total operation and maintenance cost for that part of the line. We will calculate this percentage by dividing the kilowatts of power that we transmit over the line by the total kilowatt capacity of that part of the line.

(2) Total monthly cost may include interest amortization on your net total investment (minus any investment that we make in the part of the line that we use). We will calculate this in accordance with the accounting system prescribed by the Federal Power Commission.

(i) We will use only the part of the line that we paid for.

(j) If you find that you need surplus capacity previously available for our use to transmit of electrical power for your operations, you may modify or revoke the previous certification. You must give us 30 months' advance notice of your intention. You may revoke all or any part of the capacity of the line that we certified as being surplus to your needs.

(k) If, during the existence of the grant, you want reciprocal accommodations for the transmission of electrical power over the interconnecting system of the Department to its line, such reciprocal accommodations will be accorded under terms and conditions similar to those prescribed in this paragraph in regard to the transmission by the Department of electrical power over your line.

(l) The terms and conditions prescribed in this paragraph may be modified at any time by means of a

supplemental agreement negotiated between you and the Secretary of the Interior or his representative.

§ 169.31 May I apply for land that I need for generating plants?

Yes. You may apply for additional lands for generating plants and related facilities. Indicate which lands you need for this purpose on the maps showing the definite location of the right-of-way. You must also file separate maps.

(a) These additional maps must show enough of the line of route to indicate the position of the tract in relation to your transmission line.

(b) You must show the land you need in relation to the public survey as provided in § 169.8, and plat all buildings or other structures on a scale large enough to show clearly their dimensions and relative positions.

§ 169.32 Who can apply to open public highways across Indian lands?

(a) The appropriate State or local authorities may apply under this part for authority to open public highways across tribal and individually owned lands in accordance with State laws, as authorized by the Act of March 3, 1901 (31 Stat. 1084; 25 U.S.C. 311).

(b) The appropriate State or local authorities in Nebraska or Montana, instead of applying under this part, may upon compliance with the requirements of the Act of March 4, 1915 (38 Stat. 1188), lay out and open public highways in accordance with the respective laws of those States.

(c) Under the provisions of the Act of March 4, 1915, the appropriate authorities of Nebraska and Montana must serve the Secretary with notice of intent to open the proposed road and must submit a map of definite location on tracing linen showing the width of the proposed road for our approval prior to the laying out and opening of the road.

(d) Applications for public highway rights-of-way over and across roadless and wild areas will be considered in accordance with the regulations contained in part 265 of this chapter.

Dated: July 11, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96-18243 Filed 7-17-96; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF JUSTICE**28 CFR Part 16****[AAG/A Order No. 120-96]****Exemption of System of Records Under the Privacy Act****AGENCY:** Department of Justice.**ACTION:** Proposed rule.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, proposes to exempt the National DNA Index System (NDIS) from 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G) and (H); (e) (5) and (8); and (g). The purposes of the exemption are to maintain the confidentiality and security of information compiled for purposes of criminal investigation, or of reports compiled at any stage of the criminal law enforcement process. Therefore, to the extent that these records may be subject to the Privacy Act, they are subject to exemption under subsection (j)(2) and are not available under the Privacy Act.

DATES: All comments must be received by August 19, 1996.

ADDRESSES: All comments should be addressed to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Information Resources Management, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

FOR FURTHER INFORMATION CONTACT:

Patricia E. Neely, Program Analyst (202-616-0178).

SUPPLEMENTARY INFORMATION: In the Notice Section of today's Federal Register, there is a description of this system of records.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedure, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, it is proposed to amend 28 CFR part 16 as set forth below.

Dated: July 8, 1996.

Stephen R. Colgate,
Assistant Attorney General for
Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; and 31 U.S.C. 3717, 9701.

2. It is proposed to amend 28 CFR 16.96 by removing the heading "National Crime Information Center (NCIC) (Justice/FBI-001)" and the undesignated paragraph which follows paragraph (k)(4); and by adding paragraphs (n) and (o) as set forth below.

§ 16.96 Exemptions of Federal Bureau of Investigation Systems—Limited Access, as indicated

* * * * *

(n) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G) and (H); (e) (5) and (8); and (g):

(1) National DNA Index System (NDIS) (JUSTICE/FBI-017).

(o) These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available the accounting of disclosures from records to the subject of the record would prematurely place the subject on notice of the investigative interest of law enforcement agencies, provide the subject with significant information concerning the nature of the investigation, or permit the subject to take measures to impede the investigation (e.g., destroy or alter evidence, intimidate potential witnesses, or flee the area to avoid investigation and prosecution), and result in a serious impediment to law enforcement.

(2)(i) From subsections (c)(4), (d), (e)(4) (G) and (H), and (g) because these provisions concern an individual's access to records which concern him/her and access to records in this system would compromise ongoing investigations. Such access is directed at allowing the subject of the record to correct inaccuracies in it. The vast majority of records in this system are from the DNA records of local and State NDIS agencies which would be inappropriate and not feasible for the FBI to undertake to correct. Nevertheless, an alternate method to access and/or amend records in this system is available to an individual who is the subject of a record pursuant to

procedures and requirements specified in the Notice of Systems of Records compiled by the National Archives and Records Administration and published in the Federal Register under the designation: National DNA Index System (NDIS) (JUSTICE/FBI-017).

(ii) In addition, from paragraph (d)(2) of this section, because to require the FBI to amend information thought to be incorrect, irrelevant, or ultimately, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde investigations attempting to resolve questions of accuracy, etc.

(iii) In addition, from subsection (g) to the extent that the system is exempt from the access and amendment provisions of subsection (d).

(3) From subsection (e)(1) because:

(i) Information in this system is primarily from State and local records and it is for the official use of agencies outside the Federal Government.

(ii) It is not possible in all instances to determine the relevancy or necessity of specific information in the early stages of the criminal investigation process.

(iii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary, and vice versa. It is only after the information is assessed that its relevancy in a specific investigative activity can be established.

(iv) Although the investigative process could leave in doubt the relevancy and necessity of evidence which had been properly obtained, the same information could be relevant to another investigation or investigative activity under the jurisdiction of the FBI or another law enforcement agency.

(4) From subsections (e) (2) and (3) because it is not feasible to comply with these provisions given the nature of this system. Most of the records in this system are necessarily furnished by State and local criminal justice agencies and not by individuals due to the very nature of the records and the system.

(5) From subsection (e)(5) because the vast majority of these records come from State and local criminal justice agencies and because it is administratively impossible for them and the FBI to insure that the records comply with this provision. Submitting agencies are urged and make every effort to insure records are accurate and complete; however, since it is not possible to predict when information in the indexes of the system (whether submitted by

State and local criminal justice agencies or generated by the FBI) will be matched with other information, it is not possible to determine when most of them are relevant or timely.

(6) From subsection (e)(8) because the FBI has no logical manner to determine whenever process has been made public and compliance with this provision would provide an impediment to law enforcement by interfering with ongoing investigations.

[FR Doc. 96-18326 Filed 7-17-96; 8:45 am]

BILLING CODE 4410-02-M

United States Trustees

28 CFR Part 58

RIN 1105-AA32

Qualifications and Standards for Standing Trustees

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice is proposing to amend the qualifications required for an individual to be appointed as a standing trustee. The Department of Justice is also proposing to issue standards to govern the standing trustee. Finally, the Department of Justice is correcting certain typographical errors in part 58.

DATES: Written comments must be submitted on or before September 16, 1996.

ADDRESSES: Please submit written comments to the Office of the General Counsel, Executive Office for United States Trustees, 901 E Street NW., Room 740, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Martha L. Davis, General Counsel, or Jeanne M. Crouse, Attorney, (202) 307-1399. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Under the provisions of 28 U.S.C. 586, the United States Trustee is responsible for appointing individuals to serve as standing trustees in cases filed under chapter 12 and chapter 13 of the Bankruptcy Code, 11 U.S.C. 101 *et seq.*, subject to the approval of the Attorney General. Section 586 also directs the United States Trustee to supervise standing trustees and their administration of cases. The Attorney General has general supervision over each United States Trustee and is authorized to prescribe by rule qualifications for appointment of a standing trustee by the United States Trustee. See 28 U.S.C. 586 (c)-(d). Finally, the Attorney General, in consultation with the United States

Trustee, is responsible for fixing a percentage fee and the maximum annual compensation for each standing trustee subject to the limitations set forth in the statute, including the actual and necessary expenses of the trustee. By internal order, the Attorney General has delegated to the Director of the Executive Office for United States Trustees (the "Director") the authority to fix percentage fees and compensation and the authority to issue rules governing qualifications for appointment and conduct of standing trustees after appointment.

The qualifications promulgated by the Attorney General are currently found in §§ 58.3 and 58.4 of title 28 to the Code of Federal Regulations. The proposed rule amends these qualifications and formally incorporates certain fiduciary standards that govern the conduct of a standing trustee and his or her operation. These standards address the hiring of relatives, dealings with related parties, and employment relationships among standing trustees.

This rule will aid the Director and the United States Trustees in supervising standing trustees in the administration of cases and in evaluating the actual, necessary expenses of standing trustees relative to fixing appropriate percentage fees and compensation. Adherence to the rule should assist the fair and impartial administration of the office of the standing trustee, help maximize the efficiency and purposes of case administration, and work to avoid improprieties, whether actual or perceived, that could diminish the integrity of the administrative process.

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Director has determined that this rule is not a "significant regulatory action" under Executive Order 12866 section 3(f), Regulatory Planning and Review.

Regulatory Flexibility Act

The Director, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 28 CFR Part 58

Bankruptcy, Trusts, and Trustees.

For the reasons set forth in the preamble, the Department of Justice proposes to amend 28 CFR part 58 as follows:

PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACTS OF 1978 AND 1994

1. The authority citation for part 58 is revised to read as follows:

Authority: 28 U.S.C. 509, 510, 586, 5 U.S.C. 301.

2. In § 58.1, paragraph (a) is revised to read as follows:

§ 58.1 Authorization to establish panels of private trustees.

(a) Each U.S. Trustee is authorized to establish a panel of private trustees (the "panel") pursuant to 28 U.S.C. 586(a)(1).

* * * * *

3. Section 58.4 is revised to read as follows:

§ 58.4 Qualifications for appointment as standing trustee and fiduciary standards.

(a) As used in this section—

(1) The term *standing trustee* means an individual appointed pursuant to 28 U.S.C. 586(b).

(2) The term *relative* means an individual related by affinity or consanguinity within the third degree as determined by the law of the jurisdiction where the standing trustee is located, an individual in a step or adoptive relationship within such third degree, or an individual whose close association is the equivalent of a spousal relationship.

(3) The term *financial or ownership interest* excludes ownership of stock in a publicly-traded company if the ownership interest is not controlling.

(b) To be eligible for appointment as a standing trustee, an individual must have the qualifications for membership on a private panel of trustees set forth in § 58.3(b) (1)-(4), (6)-(8). An individual need not be an attorney to be eligible for appointment as a standing trustee. A corporation or partnership may be appointed as standing trustee only with the approval of the Director.

(c) The United States Trustee shall not appoint as a standing trustee any individual who, at the time of appointment, is:

(1) A relative of another standing trustee in the region in which the standing trustee is to be appointed;

(2) A relative of a standing trustee in the region in which the standing trustee is to be appointed, who, within the